IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

CHARLES ROSS §

v. § CIVIL ACTION NO. 6:09cv268

GUY SMITH, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

The Plaintiff Charles Ross, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Ross complains of deliberate indifference to his serious medical needs through the denial of dentures. The Defendants Dr. David Langston and Guy Smith have been ordered to answer the lawsuit and have filed a motion for summary judgment. On February 3, 2011, the Magistrate Judge issued a Report recommending that this motion be granted and that Dr. Langston and Guy Smith be dismissed from the lawsuit. The Magistrate Judge further recommended that Ross' motion for summary judgment be denied.

A copy of this Report was sent to Ross at his last known address, return receipt requested, but no objections have been received; accordingly, Ross is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. <u>Douglass v. United Services Automobile Association</u>, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and summary judgment evidence in the cause

as well as the Report of the Magistrate Judge. Upon such review, the Court has determined that the

Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 51) is ADOPTED as

the opinion of the District Court. It is further

ORDERED that the motion for summary judgment of the Defendants Dr. David

Langston and Guy Smith (docket no. 38) is GRANTED. The Plaintiff's claims against the

Defendants Dr. David Langston and Guy Smith are hereby DISMISSED with prejudice, and these

persons are dismissed as parties to this lawsuit. The dismissal of these claims and defendants shall

have no effect upon the Plaintiff's claims against Dr. Owen Murray and Dr. Jerry Toole. Finally,

it is

ORDERED that the Plaintiff's motion for summary judgment (docket no. 37) is

hereby DENIED.

SIGNED this 4th day of March, 2011.

MICHAEL H. SCHNEIDER

UNITED STATES DISTRICT JUDGE

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